

REMARKS

The application has been amended to place the application in condition for allowance at the time of the next Official Action.

Claims 1-27, 49 and 50 are pending in the application.

Claims 1-27, 49 and 50 were rejected under 35 USC 112, first paragraph as allegedly failing to show a flap. That rejection is respectfully traversed.

As disclosed on page 21, lines 20-25 overlap 53 includes an edge area 61 enabling the user to grab and pull the overlap. See by way of example Figure 3B. One of ordinary skill in the art would readily identify edge area 61 as a flap. Thus, as this element was originally disclosed and is what is now claimed, the rejection is believed untenable and should be withdrawn.

Claims 1-16, 19-21, 49 and 50 were rejected under 103(a) as being unpatentable over SCHOELER 5,862,652 in view of SCHMACHTEL 4,194,438. That rejection is respectfully traversed.

Claim 1 is amended and recites that the form-fill tube extends through the form shoulder in a vertical passage of the form shoulder. Claim 1 also recites a collar surface of the form shoulder slopes with an inclined surface into a narrowing lip, the narrowing lip extends to a short side of the passage. Claim 1 further recites a form shoulder having a sideward opening to form a flap in the packaging formed by the form-fill machine.

Support for these features may be found on page 14, line 29 to page 15, line 7 and page 21, lines 20-25. See by way of example Figures 2A and 3B.

The Official Action recognizes that SCHOELER fails to disclose a shoulder structure for forming an overlap in the foil tube having a flap. SCHMACHTEL is offered for this feature.

Column 5, lines 1-7 of SCHMACHTEL disclose longitudinal sealing jaws are pressed onto the fill pipe in order to weld the overlapping edges together using heat. Such action creates the tube of material in SCHMACHTEL.

However, the tube of material does not contain a flap. Rather, as set forth above the overlapping edges are sealed and glued together using heat. The shoulder structure of SCHMACHTEL does not create an overlap with a flap. Compare Figure 2A of the present application with Figure 5 of SCHMACHTEL.

As the combination of references neither discloses a form-fill tube extending through the form shoulder in a vertical passage of the form shoulder, a collar surface of the form shoulder slopes with an inclined surface into a narrowing lip, the narrowing lip extends to a short side of the passage, nor discloses the recited flap formed by the above structure, claim 1 would not have been obvious in view of SCHOELER and SCHMACHTEL.

Independent claim 19 is amended to include similar features. The analysis above regarding claim 1 is equally applicable to claim 19.

Claims 17 and 18 were rejected under 103 (a) as unpatentable over SCHOELER in view of SCHMACHTEL and further in view of INAGAKI EP 0 276 554. That rejection is respectfully traversed.

INAGAKI is only cited with respect to features of dependent claims 17 and 18. INAGAKI does not overcome the shortcomings of SCHOELER in view of SCHMACHTEL set forth above with respect to claim 1. Since claims 17 and 18 depend from claim 1 and further define the invention, claims 17 and 18 are believed patentable at least for depending from an allowable independent claim.

Claims 22-27 were rejected under 103 (a) as unpatentable over SCHOELER in view of SCHMACHTEL and further in view of INAGAKI EP 0 276 554. That rejection is respectfully traversed.

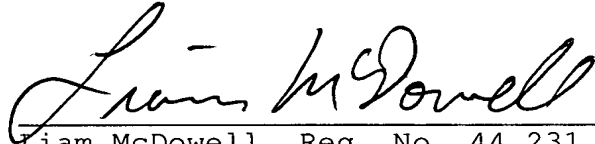
As set forth above, SCHOELER in view of SCHMACHTEL do not disclose what is recited in claim 1. Claim 22 is amended along the lines of claim 1. As INAGAKI does not overcome the shortcomings of SCHOELER in view of SCHMACHTEL with respect to claim 1, the proposed combination of references would not have been sufficient to render obvious claims 22-27.

In view of the present amendment and the foregoing remarks, it is believed that the present application is in condition for allowance. Reconsideration and allowance are respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

A handwritten signature in cursive script, reading "Liam McDowell", written in dark ink. The signature is positioned above a horizontal line.

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